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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,541	03/19/2002	Gary S Simpson	124-928	6928
23117 7590 06/05/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
LANIER, BENJAMINE				
ART UNIT		PAPER NUMBER		
2432				
MAIL DATE		DELIVERY MODE		
06/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: GARY S. SIMPSON and TIMOTHY B. DEAN

Application No. 10/088,541
Technology Center 2400

Mailed: June 5, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on March 12, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention.

AMENDMENT AFTER FINAL

A review of the file indicates that on April 26, 2007, Appellant filed an Amendment After Final in response to the Final Rejection mailed January 31, 2007. It is not clear whether this Amendment has been considered because an Advisory Action has not been mailed, thus failing to indicate whether or not the proposed amendment will or will not be entered for purposes of appeal. Clarification from the Examiner is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- (1) appropriately respond to the Amendment After Final;
- (2) submit a PTO-90 with a correct “Status of Amendments After Final” section—section 4 of the Examiner’s Answer; and
- (3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/BIM

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